1947. File No. B.L.R.C. Bom/47

Legal DEPARTMENT

B BRANCH

Subject:— A Bill to amend the Bombay Land Revenue Code, 1879, S. 216.

L. A. Bill No. XLV of 1947.

Bombay Act No. XLV of 1947.

P. 31/C

File No. B.L.R.C. Bom/47.

Std. Sectt. Slip 24.B e.

586-B/of 1947.

C O N T E N T S.

Legal Department File No. B.L.R.C. Dem./47.

Cr. No.	Compilation No.	Subject.	Pages.
		A Bill to amend the Bombay Land Revenue Code, 1879.	
1.	U.O. to R.D.No. 1213-L dt. 28th Oct. 1938.	Necessity of Legislation.	1 - 2.
2.	U.O. to R.D.No. 6203 dt. 9th Aug. 1947.	Draft amendment. Sec. 216.	3 - 4.
3.	U.O. to R.D.No. 82-L dt. 12th Sept. 1947.	Draft Bill.	5 - 8.
4.	U.O. to R.D.No. 97-L dt. 17th Sept. 1947.	Governor's Sanction.	9 - 12.
5.	U.O. to R.D.No. 99-L dt. 4th Oct. 1947.	The Commutation allowance payable in respect of a commuted Kulkarni Vatan ——audit reg.	13 - 14.
6.	U.O. to R.D.No. 161-L dt. 20th Oct. 1947.		15 - 16.
7.	G.L.L.D.No. 11579 dt. 22nd Dec. 1947	Seeking Governor's assent	17 - 18.
8.	L.D.I.I.No. 15961 dt. 11th Dec. 1947.	Governor's assent.	19 - 20.
9.	G.G.L.D.No. 15-L dt. 19th Sept. 1947.	Publication of the Bill.	21 - 26.
10.	G.I.L.D.No. 12058 dt. 15th Dec. 1947.	Publication of the Act.	27 - 32.
11.	————	Bill Act and Debate.	33 - 44.

SIT/10.3.

11/14/15

Office of the R.'ble

It would be necessary to undertake legislation to give effect to the proposal to introduce compulsory survey and settlement in alienated villages or alienated shares of villages at the cost of the Inamdar. The proposed legislation would require the previous sanction of the Governor in his discretion under section 299(3) of the Government of India Act, 1935. It will not attract the operation of section 300 of the said Act.

Sd/- J.R. Dharandhar.
27/10
Remembrancer of Legal Affairs.

U.O. to A.D., No. 1513-L, dated the 28th October 1938.

CM/29.5.

Office of the R.L.A.

The requisite draft amendment of section 216 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) on the lines of the propositions at pages 41 and 42 ante is sent herewith. The following remarks are made :

With regard to proposition 5 at page 42 the recoveries are also to be made as arrears of land revenue. I think that since the costs are being made payable under the Act by an amendment of section 216, they will come under section 157 and be recoverable as arrears of land revenue. However there is no harm in specifically making a provision to that effect.

The whole liability is proposed to be placed on the registered holder. It is not clear what register is referred to. But I take it that it has reference to the Record of Rights; since section 1353(1)(a) and (c) requires the names of holders and the amount of rent or revenue due to them to be included in the Record of Rights to be maintained in every ryotwari village. The R.D. might verify if this is so or correct, the amendment if any other register is referred to.

It is also proposed that the registered holder, on whom the whole liability shall be placed, may be left to recover shares from their co-holders. This is not legally feasible. Every holder should be separately held responsible for the payment of amount in proportion to his share in the revenue of the village.

The proposed amendment of section 216 of the Bombay Land Revenue Code, 1879, is intra vires the Provincial Legislature under section 100(3), read with entry 21 in List II in the Seventh Schedule to the Government of India Act, 1935. It does not affect any of the special responsibilities of the Governor under section 52, but would require his previous sanction in his discretion under section 299(3) of the said Government of India Act, 1935. It does not affect the operation of section 300 of the said Act, as stated in R.L.A's opinion No. 1312-L, dated 28th October 1938 at p.25 ante.

4. The Statement of Objections and Reasons at p. 43, as slightly amended, is in order.

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs

BHP/10.5. U.R. to R.D., No. 6203, dated the 9th August 1947.

Office of the R.L.A.

The requisite draft Bill including the proposed amendment is sent herewith.

2. The Bill is intra vires the Provincial Legislature under section 100(3), read with entry 21 in List II in the Seventh Schedule to the Government of India Act, 1935. The Bill requires the previous sanction of the Governor under section 299(3) of the said Act.

3. The Statement of Objects and Reasons at pages 43-44 ante has been suitably amended.

Sd/- P.N.Lal.
12.9.1947.

Remembrancer of Legal Affairs.

U.R. to R.D., No. 123L, dated the 12th September 1947.

SM/10.9.

STATEMENT OF OBJECTS AND REASONS.

Government has always held that it is in the public interest that survey and settlement should be introduced in alienated villages but, as section 216 of the Bombay Land Revenue Code, 1879, stands at present, the consent of the holders to such introduction cannot be dispensed with. In order to encourage the holder or holders of alienated villages to agree to the introduction of survey and settlement, Government has hitherto defrayed the cost of survey and settlement, on the holders on their part agreeing to pay the salaries and perquisites of the village officers for the collection of land revenue and local fund cess and to supply agricultural and vital statistics. Experience has proved that survey settlements are to the advantage both of the holders of alienated villages and of the tenants. It is, therefore, proposed to remove the requirement of the holder's consent before the introduction of survey settlements in alienated villages and also to charge the holders and also if Government so direct other persons interested in the lands in the village with the expenses of these operations but at the same time to respect all obligations undertaken by Government under existing agreements with the holders of alienated villages. As a corollary it will be necessary to impose on the holders by law the obligation to defray the salaries of the village officers and the cost of collecting local fund cess. It is not considered necessary to impose upon the holders the obligation of supplying agricultural and vital statistics as this forms part of the duties of village officers.

(Signed) Morarji Desai.

Dated 13th September 1947.

By order of the Governor of Bombay,

Sd/- P.M.Lad.

P.M.LAD,
Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 13th September 1947.

BMT/10.5.

Legal Department.

The Bill to amend the Bombay Land Revenue Code, 1879, having been published in the Bombay Government Gazette, dated the 14th September 1947, the Revenue Department is requested to submit the case papers to H.E. (Home and Revenue) for his use at the time of introducing the Bill. The Revenue Department may now arrange to give the necessary notice to the Secretary to the Bombay Legislative Assembly in the appended form. That Department is also requested to obtain the orders of Government in due course regarding the application of the proposed Act to the partially excluded areas. A draft sanction order under section 299(3) of the Government of India Act, 1935, is appended. The papers should be submitted to H.E. the Governor for that purpose.

Sd/- B.D.Pandit.

For Secretary to Government.

U.R. to R.D.No. 37-L, through P.A. to H.M. (R.D.) dated the 17th September 1947.

SHT/10.9.

GOVERNMENT HOUSE

Ganeshkhind,

Poona, September 1947.

I accord sanction under section 299(3) of the Government of India Act, 1935, to the Bombay Land Revenue Code (Amendment) Bill, 1947.

GOVERNOR OF BOMBAY.

Legal Department.

The amendment at serial No. 3 by Dr.M.H.Natu, M.L.A., to L.A.Bill No.XLV of 1947 (A Bill to amend the Bombay Land Revenue Code, 1879) excludes the commutation allowance payable in respect of a commuted Kulkarni watan in the village from the scope of the Bill. It has the effect of making Government pay the said commutation allowance from the revenues of the Province. As such the amendment would require the recommendation of the Governor under sec.82(3) of the Government of India Act, 1935. It does not require any sanction under the said Act.

None of the other amendments by Dr. Natu requires any recommendation or sanction under the said Act.

Sd/- P.H.Lad.

Secretary to Government.

U.S. to R.D., No. 99-L , dated the 4th October 1947.

SMK/10.5.

Legal Department.

The amendment at serial No. 1(a) by Mr.N.S.Desai, M.L.C., to L.A.Bill No.XLV of 1947 (A Bill to amend the Bombay Land Revenue Code, 1879) makes Government liable for the salaries of village officers where the lands assigned for remuneration are not in the possession of the holders; the amendment at serial No.1(b) excludes the commutation allowance payable in respect of a commuted Kulkarni watan in the village from the scope of the Bill and therefore has the effect of making Government pay the said commutation allowance from the revenues of the Province. As such both the amendments would require the recommendation of the Governor under section 82(3) of the Government of India Act, 1935. They do not require any sanction under the said Act.

The second amendment at serial No. 2 by Mr.Desai does not require any recommendation or sanction under the said Act.

Sd/- S.S.Palekar.

Secretary to Government.

U.O. to H.D., No. 161-L , dated the 20th October 1947.

SMT/10.5.

No. 11515

Bombay Castle, 2 Legal Department.
Dec. 1947.

From
P.M.Lad, Esquire, I.C.S.
Secretary to the Government of Bombay;

To
The Private Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Land Revenue Code, 1879.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for the assent of His Excellency the Governor, the authentic copy of the Bill to amend the Bombay Land Revenue Code, 1879, which was read for the third time and passed at the meeting of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 4th and the 17th October 1947, respectively.

2. The subject-matter of the Bill falls under entry 21 in List II in the Seventh Schedule to the Government of India Act, 1935.

3. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I also forward herewith one copy of each of the papers noted in the margin.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	The Bill was not referred to a Select Committee.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 4th October 1947 and of the Bombay Legislative Council dated the 17th October 1947.	

I have the honour to be,

Sir,

(P.T.O.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- P.M.Lad.

Secretary to Government.

Through

The Secretary to the Government of Bombay,

Revenue Department.

CMT/10.5.

No.P.S.G.-5736.

Office of the Private Secretary to the Governor,
Government House,
Bombay, 11th December 1947.

From

L. E. Bogshaw, Esquire, I.C.S.
Private Secretary to the Governor of Bombay.

To

The Secretary to the Government of Bombay,
Legal Department.

Subject : The Bombay Land Revenue Code (Amendment) Bill, 1947.

Sir,

With reference to your letter No. 11515, dated the 2nd December 1947, on the subject mentioned above, I return herewith, with His Excellency the Governor's assent signified thereon, the authentic copy of the Bombay Land Revenue Code (Amendment) Bill, 1947.

Your obedient servant,

Sd/-

Private Secretary
to the Governor of Bombay.

GHK/10.5.

Bills.

A Bill to amend the Bombay Land Revenue Code, 1879.

GOVERNMENT OF BOMBAY.

Legal Department.
Resolution No. 15-L

Council Hall, Poona, 13th September 1947.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 14th September 1947, as Bill No.XLV of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 19th September 1947.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd/- S.D.Palekar,

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with a request that 23* Gazette copies of the Bill and the Statement of Objects and Reasons may be forwarded to the Bombay Legislature Department for distribution to the Members of the Bombay Legislative Assembly and 45 copies for the use of the Legal Department and 20 copies for the use of the

Revenue Department.	With a copy of the Bill and Statement of Objects and Reasons.
The Revenue Department.	
The Oriental Translator to Government.	
The Bombay Legislature Department.	
The Director of Publicity, Bombay.	

* With five extra film copies of the Bill

SLE/10.5.

(To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari Scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported).

The following Bill is published under the proviso to Rule 80 of the Bombay Legislative Assembly Rules :-

L.A.Bill No.XLV of 1947.

A Bill to amend the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, for the purpose hereinafter appearing; It is hereby enacted enacted as follows:-

Short title.

1. This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1947.

Substitution of new section 216 for section 216 of Bom. V of 1879.

Bom.V of 1879.

2. For section 216 of the Bombay Land Revenue Code, 1879, the following shall be substituted, namely:-

"216 (1) The provisions of Chapters VIII, VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications:-

Chapters VIII to X to apply to alienated villages.

(i) subject to the provisions of any covenant or agreement entered into by the Provincial Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said Chapters in any such village or share shall be payable by the holder or holders in proportion to their share in the rent or revenue of the village or share;

(ii) if the Provincial Government so directs such costs shall also be payable by any class of persons who, in the opinion of the Provincial Government, have any interest in any land in such village or share and in such proportion as the Provincial Government may direct;

(iii) on the introduction of a settlement under Chapter VIII or VIII-A in any such village or share, the holder or holders of such village or share shall, in proportion to ~~for~~ his share in the rent or revenue of the village or share, be liable to pay -

(a) the salaries of the village officers appointed for the village or the share including the commutation allowance payable in respect of a commuted Hallarni watan in the village, if any,

(b) the costs of the levy of a cess under section 93 of the Bombay Local Boards Act, 1923;
Bom.VI of 1923.

(iv) the liability under clauses (i) and (iii) shall be a first charge on the rent or revenue of such village or share;

(V)the total amount payable under Clauses (i) and (iii) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record ~~of Rights~~ of Rights;

(VI) the amount payable under Clause (ii) be any class of persons shall be recoverable in such manner as the Provincial Government directs from the members of that class as entered in the Record of Rights.

(2) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section".

Acts.

Publication of the Bombay Land Revenue Code (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 12018
Bombay Castle, 15th December 1947.

Letter to the Private Secretary to the Governor, No.11515, dated the 2nd December 1947.

Letter from the Private Secretary to the Governor, No.P.S.G. 9736, dated the 11th December 1947 —

"With reference to your letter No.11515, dated the 2nd December 1947, on the subject mentioned above, I return herewith, with His Excellency the Governor's assent signified thereon, the authentic copy of the Bombay Land Revenue Code (Amendment) Bill, 1947".

RESOLUTION:- The Act should be published as Bombay Act, No.XLV of 1947, in the Bombay Government Gazette dated the 15th December 1947.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translation s should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/- S.D.Palekar, (PALEKAR)

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),

The Revenue Department,
The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay.
} with a copy of the Act.

*With five extra copies of the Act.

SHT/10.9.

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XLV OF 1947.

A Bill to amend the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1947.

Bom.

Substitution of new section 216 for section 216 of Bom. V of 1879.

2. For section 216 of the Bombay Land Revenue Code, 1879, the following shall be substituted, namely :—

Chapters VIII to X to apply to alienated villages.

"216. (*1*) The provisions of Chapters VIII, VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications :—

(*i*) subject to the provisions of any covenant or agreement entered into by the Provincial Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said Chapters in any such village or share shall be payable by the holder or holders in proportion in their share in the rent or revenue of the village or share ;

(*ii*) if the Provincial Government so directs such costs shall also be payable by any class of persons who, in the opinion of the Provincial Government, have any interest in any land in such village or share and in such proportion as the Provincial Government may direct;

(*iii*) on the introduction of a settlement under Chapter VIII or VIII-A in any such village or share, the holder or holders of such village or share shall, in proportion to his share in the rent or revenue of the village or share, be liable to pay—

(*a*) the salaries of the village officers appointed for the village or the share including the commutation allowance payable in respect of a commuted kulkarni watan in the village, if any,

(*b*) the costs of the levy of a cess under section 93 of the Bombay Local Boards Act, 1923; Bom. VI of 1923.

(*iv*) the liability under clauses (*i*) and (*iii*) shall be a first charge on the rent or revenue of such village or share;

(*v*) the total amount payable under clauses (*i*) and (*iii*) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record of Rights;

(*vi*) the amount payable under clause (*ii*) by any class of persons shall be recoverable in such manner as the Provincial Government directs from the members of that class as entered in the Record of Rights.

(*2*) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section."

STATEMENT OF OBJECTS AND REASONS.

Government has always held that it is in the public interest that survey and settlement should be introduced in alienated villages but, as section 216 of the Bombay Land Revenue Code, 1879, stands at present, the consent of the holders to such introduction cannot be dispensed with. In order to encourage the holder or holders of alienated villages to agree to the introduction of survey and settlement, Government has hitherto defrayed the cost of survey and settlement, on the holders on their part agreeing to pay the salaries and perquisites of the village officers for the collection of land revenue and local fund cess and to supply agricultural and vital statistics. Experience has proved that survey settlements are to the advantage both of the holders of alienated villages and of the tenants. It is, therefore, proposed to remove the requirement of the holder's consent before the introduction of survey settlements in alienated villages and also to charge the holders and also if Government so direct other persons interested in the lands in the village with the expenses of these operations but at the same time to respect

all obligations undertaken by Government under existing agreements with the holders of alienated villages. As a corollary it will be necessary to impose on the holders by law the obligation to defray the salaries of the village officers and the cost of collecting local fund cess. It is not considered necessary to impose upon the holders the obligation of supplying agricultural and vital statistics as this forms part of the duties of village officers.

Dated 13th September 1947. (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 13th September 1947.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Bom. Act No. XLV

~~L. A. BILL No. XLV~~ OF 1947.

An Act—

~~A Bill~~ *to amend the Bombay Land Revenue Code, 1879.*

(As ~~read~~ for the third time and passed by the Legislative Assembly on the 4th October 1947.)

(As read for the third time and passed by the Legislative Council on the 17th October ~~1947~~.)

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Bom. V of 1879.

1. This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1947. Short title.

2. For section 216 of the Bombay Land Revenue Code, 1879, the following shall be substituted, namely :— Substitution of new section 216 for section 216 of Bom. V of 1879.

Bom. V of 1879.

"216. (*1*) The provisions of Chapters VIII, VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications :— Chapters VIII to X to apply to alienated villages.

(*i*) subject to the provisions of any covenant or agreement entered into by the Provincial Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said Chapters in any such village or share shall be payable by the holder or holders in proportion in their share in the rent or revenue of the village or share ;

(*ii*) if the Provincial Government so directs such costs shall also be payable by any class of persons who, in the opinion of the Provincial Government, have any interest in any land in such village or share and in such proportion as the Provincial Government may direct;

(*iii*) on the introduction of a settlement under Chapter VIII or VIII-A in any such village or share, the holder or holders of such village or share shall, in proportion to his share in the rent or revenue of the village or share, be liable to pay—

(*a*) the salaries of the village officers appointed for the village or the share including the commutation allowance payable in respect of a commuted kulkarni watan in the village, if any,

(*b*) the costs of the levy of a cess under section 93 of the Bombay Local Boards Act, 1923; Bom. VI of 1923.

(*iv*) the liability under clauses (*i*) and (*iii*) shall be a first charge on the rent or revenue of such village or share;

(*v*) the total amount payable under clauses (*i*) and (*iii*) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record of Rights;

(*vi*) the amount payable under clause (*ii*) by any class of persons shall be recoverable in such manner as the Provincial Government directs from the members of that class as entered in the Record of Rights.

(*2*) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLV OF 1947.]

(As read for the third time and passed by the Legislative Assembly on the 4th October 1947.

(As read for the third time and passed by the Legislative Council on the 17th October 1947.)

A Bill to amend the Bombay Land Revenue Code, 1879.

[Mr. MORARJI DESAI, M.L.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.